

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA**

JAMES W. SMITH

Plaintiff,

V.

**CITY OF PHILADELPHIA,
PHILADELPHIA PRISONS SYSTEM,
THOMAS COSTELLO, and
EARL HATCHER**

Defendants.

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**CIVIL ACTION
NO. 02-CV-3683**

PARTIAL MOTION TO DISMISS

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil procedure, defendants move the Court to dismiss with prejudice Count II of plaintiff's Amended Complaint.

In support thereof, defendants rely upon the information and arguments set forth in the accompanying Memorandum of Law.

Respectfully submitted,

Dated: October ___, 2002

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